

Notice of Allowability	Application No.	Applicant(s)	
	09/808,387	PALM ET AL.	
	Examiner	Art Unit	
	Samuel W Liu	1653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12-6-04.
2. ☒ The allowed claim(s) is/are 1,5,6,21-29 and 31-33.
3. ☒ The drawings filed on 22 June 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| <ol style="list-style-type: none"> 1. <input type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>12-31-04 & 1-13-05</u>. 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____ |
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DETAILED ACTION

This Office action is in response to applicants' amendment filed 6 December 2004, which cancels claims 7, 9-10 and amends claims 1, 4-5, 24, 27, 29, 31, and adds new claims 34-35. The stated amendment has been entered. Also, the applicants' request (6 December 2004) for extension of time of two months has been entered. Note that claims 3 and 8 are cancelled by the applicants' amendment filed 4 June 2004. Thus, the pending claims 1-2, 4-6 and 11-35 are therefore examined in this Office action.

EXAMINER'S AMENDMENT

An Examiner's Amendment to the record appears below. Should the change and/or additions be unacceptable to Applicant, an amendment may be filed as provided by 37 C.F.R. § 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than payment of the Issue Fee.

Authorization for this examiner's amendment was given in telephone interviews with Dave Rogers on 31 December 2004 and 13 January 2005. Applicants agree to cancel claims 2, 4, 11-20, 30 and 34-35, and agree the Examiner proposed amendment to claims 1, 5-6, 24-25, 27-29, and 31-33.

Amendments to the specification:

On page 3, line 27, after "shows" add "amino acid sequences (A) and "; and after "primary structure" add "(B)".

On page 3, line 29, change "mouse and rat" to "mouse (A) and rat (B)".

On page 4, line 1, after "mRNA expression" add "in cerebral cortex (A-F) and in trigeminal, facial, solitary and hypoglossal nuclei (G-H)".

On page 4, line 3, after "mRNA" add "in cerebral cortex (A), hippocampal subfields and granular layer of dentate gyrus (B), substantia nigra compact part (C), medial habenular nucleus

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(D), locus coeruleus (E), molecular and granular layer of cerebellar cortex (F), retina layer, ganglion layer, inner nuclear layer, outer plexiform layer, outer nuclear layer, and pigmental epithelial (G), and dorsal root ganglia (H).”.

On page 4, line 4, after “mRNA” add “in the layer II of the cerebral cortex (A), dentate gyrus of hippocampus (B), CA3 layer of hippocampus (C), polymorph layer of dentate gyrus (D), lateral septum (E), substantia nigra compact part (F), globus pallidus (G), spinal cord at L3 layer (H-I), dorsal root ganglia (J), glia limitans (K), and pineal gland.”.

On page 4, line 7, after “neuN” add “. The results of the analysis are shown as autoradiographic grains in layer II of cerebral cortex (A), CA1 layer of the hippocampus (B), polymorph layer of the dentate gyrus and CA3 layer of the hippocampus (C), caudate putamen (D), reticular thalamic nucleus (E), and ventromedial hypothalamic nucleus (F).”.

On page 4, line 9, after “acid treatment” add “panels A and A1 are control brains; and panels B and B1 are the brains treated with kainic acid.”.

Amendments to claims:

Claim 1 (*Twice amendment*): After “at least”, change “85%” to “90%”; after “sequence identity to” change “a sequence selected from the group consisting of SEQ ID NO:1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31 and 33” to “SEQ ID NO:21”; and after “wherein said Neu polypeptide”, add “is capable of suppressing transcription and”.

Delete claims 2 and 4.

Claim 5 (*Twice amendment*): After “sequence identity to” change “a sequence selected from the group consisting of SEQ ID NO:1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31 and 33” to “SEQ ID NO:21”.

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Claim 6 (*Twice amendment*): After “polynucleotide comprises” change “a sequence selected from the group consisting of SEQ ID NO:1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31 and 33” to “SEQ ID NO:21”.

Delete claims 11-20.

Claim 24 (*Twice amendment*): After “at least”, change “85%” to “90%”, and after “sequence identity to” change “a nucleotide sequence selected from the group consisting of SEQ ID NO:1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31 and 33” to “SEQ ID NO:21”.

Claim 25 (*Twice amendment*): After “said nucleotide sequence” change “is selected from the group consisting of SEQ ID NO:1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31 and 33” to “comprises SEQ ID NO:21”.

Claim 27 (*Twice amendment*): After “at least”, change “85%” to “90%”, and after “sequence identity to” change “a nucleotide sequence selected from the group consisting of SEQ ID NO:1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31 and 33” to “SEQ ID NO:21”.

Claim 28 (*Twice amendment*): After “said nucleotide sequence” change “is selected from the group consisting of SEQ ID NO:1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31 and 33” to “comprises SEQ ID NO:21”.

Claim 29 (*Twice amendment*): After “at least”, change “85%” to “90%”, and after “sequence identity to” change “a nucleotide sequence selected from the group consisting of SEQ ID NO:1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31 and 33” to “SEQ ID NO:21”.

Delete claim 30.

Claim 31 (*Twice amendment*): After “at least about 85%” to “at least 90%”, and after “sequence identity to” change “an amino acid sequence selected from the group consisting of SEQ ID NO:2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, and 34” to “SEQ ID NO:22”.

Claim 32 (*Twice amendment*): After “said Neu polypeptide” change “has an amino acid sequence selected from the group consisting of SEQ ID NO:2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, and 34” to “comprises SEQ ID NO:22”.

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Claim 33 (*Twice amendment*): After "nucleotide sequence" change "is selected from "the group consisting of SEQ ID NO:1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31 and 33" to "comprises SEQ ID NO:21".

Delete claims 34-35.

Conclusion: Claims 1, 5-6, 21-29 and 31-33 are allowable over the art of record.

Any comments considered necessary by applicants must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Samuel Wei Liu, Ph.D. whose telephone number is (571) 272-0949. The Examiner can normally be reached daily except alternate Fridays from 8:30 A.M. to 5:30 P.M. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Jon Weber, can be reached at (571) 272-0925. The official fax number for Technology Center 1600 is (703) 308-4242. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-0196.

SWL

Samuel W. Liu, Ph.D.
Art Unit 1653, Examiner
January 3, 2005

Karen Cochrane Carlson PhD
KAREN COCHRANE CARLSON, PH.D.
PRIMARY EXAMINER